

STATE OF LOUISIANA

DEPARTMENT OF ENVIRONMENTAL QUALITY

IN THE MATTER OF:
PPG INDUSTRIES, INC.

PROCEEDINGS UNDER THE LOUISIANA
ENVIRONMENTAL QUALITY ACT
LA. R.S. 30:2001, ET SEQ.

TRACKING NUMBER:
WE-PP-00-0045
AGENCY INTEREST NUMBER: 1255

SETTLEMENT

The following Settlement is hereby agreed to between PPG Industries, Inc. (Respondent) and the Department of Environmental Quality, (Department), under authority granted by the Louisiana Environmental Quality Act, LSA- R.S. 30:2001, et seq., (the "Act").

I

Respondent owns and operates an organic and inorganic chemical manufacturing facility located at 1300 PPG Drive at Lake Charles, Calcasieu Parish, Louisiana.

II

The allegations which form the basis of the enforcement action(s) are:

A. On or about May 2, 2000, the Respondent was issued Notice of Potential Penalty WE-PP-00-0045 that reiterated the findings of fact in Compliance Orders WE-C-99-0086 and WE-C-99-0086A issued on or about August 10, 1999 and March 28, 2000, respectively, where the Respondent caused or allowed the unauthorized discharge of inadequately treated wastewater into waters of the state for the monitoring periods from December 1996 through February 2000, inclusive. This is in violation of Respondent's LPDES Permit LA0000761 (Part I, Section A Effluent Limitations and Monitoring Requirements and Part III, Section A.2). La. R.S. 30:2076

(A) (1). La. R.S. 30:2076 (A) (3), LAC 33:IX.501.A, LAC 33:IX.501.D, and LAC 33:IX.2355.A;

B. On or about May 2, 2000, the Respondent was issued Notice of Potential Penalty WE-PP-00-0045, wherein it was noted that Respondent failed to submit a complete noncompliance report for violations in December 1997 in violation of LPDES Permit LA0000761 (Part III, Sections A.2 and D.8), La. R.S. 30:2076 (A) (3), LAC 33:IX.501.A, LAC 33:IX 2355.A and LAC 33:IX2355.L.7.

C. On or about May 2, 2000, the Respondent was issued Notice of Potential Penalty WE-PP-00-0045 alleging an unauthorized discharge of liquid sodium hydroxide occurred on or about November 30, 1999 in violation of LPDES Permit LA0000761 (Part I, Section A and Part III Sections A.2), La. R.S. 30:2076 (A) (3), LAC 33:IX.501.A, LAC 33:IX.501.D, and LAC 33:IX 2355.A. The destruction of aquatic biota as a result of the aforementioned unauthorized discharge constituted a violation of La. R.S. 30:2076 (A) (1), La. R.S. 30:2076 (A) (3), LAC 33:IX.501.A, LAC 33:IX.501.D, LAC 33:IX.1113.B.1.d, and LAC 33:IX.1113.B.5.

D. Notice of Potential Penalty WE-PP-00-0045 also noted that the Respondent was deficient in the following manner:

i. Respondent exceeded the Fifteen (15) minute holding time for its pH and Total Residual Chlorine (TRC) samples;

ii. The oven used for TSS samples exceeded the 103 degree C to 105 degree C temperature range on several occasions and failed to note the temperature log when adjustments were made to the oven temperature range;

These are violations of LPDES Permit LA0000761 (Part III, Section A.2 and C.5), La. R.S. 30:2076 (A) (3), LAC 33:IX.501.A, LAC 33:IX.2355.A, and LAC 33:IX.2355.J.4.

E. On May 25, 2000 Respondent met with the Department to discuss mitigating factors and circumstances surrounding the violations alleged in WE-PP-00-0045. At such meeting, Respondent also voluntarily reported the following additional permit exceedances that had occurred during April and May, 2000: Exceedance of TSS daily maximum limit at Outfall 101 on April 2, 2000 and exceedance of the HCB daily maximum limit on May 2, 2000 at Outfall 501. These additional exceedances are also addressed by this agreement.

III

Respondent denies that some of the allegations in WE-PP-00-0045 are violations. Respondent asserts that it has an excellent compliance history. The compliance history of the facility, as supplied by the Respondent, shows the following:

YEAR	number exceedances	number monitoring events	compliance rate
1997	4	2535	99.8%
1998	18	2545	99.3%
1999	8	2503	99.7%
2000 (1 st Qtr)	3	820	99.6%

Respondent further asserts that it has taken prompt corrective measures to address any noncompliance event. Respondent denies that fines or penalties are due for many of the alleged violations as such were minor and were promptly addressed.

IV

Nonetheless, the Respondent, without making any admission of liability under state or federal statute or regulation, agrees to pay, and the Department agrees to accept, a single payment in the amount of Fifty Thousand and No/100 Dollars (\$50,000.00) in settlement of the claims set forth in this agreement.

V

Respondent, in addition to the single payment specified in Paragraph V above and as part of this Settlement, agrees to expend the amount of One Hundred Fifty Thousand One Hundred Twenty and No/100 Dollars (\$150,120.00) to implement and/or perform the following beneficial environmental project:

A. The Respondent agrees to purchase the following equipment to enhance the Calcasieu Parish Comprehensive Air Sampling Program ambient air monitoring network to enable monitors to conduct event-based hydrocarbon and volatile organic compound monitoring:

1. Three (3) Thermo Environmental Instruments, Inc. Model 55C Methane/non-Methane analyzers;
2. Four (4) Xontech, Inc. Xontech 911 single canister samplers for episodic sampling;
3. Four (4) Xontech, Inc. Xontech 911 single canister samplers for six-day 24 hour sampling;
4. Three (3) Xontech, Inc. Xontech 912 multi-canister sampling adaptors;
5. Four (4) Environmental Systems Corporation ("ESC") 8816 data loggers, with a minimum of eight voltage inputs, eight status inputs, and eight digital outputs;

6. Advanced Pollution Instrumentation API 701 zero air supplies with HC scrubber to provide combustion air for Thermo Environmental Instruments, Inc. Model 55C Methane/non-Methane analyzers;
7. Four (4) Summa canisters (6 liter);
8. Four Sets of gases:
 - a. Hydrogen gas;
 - b. Zero air "HC free" gas;
 - c. Span gas (propane).
9. Three (3) miscellaneous wiring, stainless steel tubing and fittings;
10. Four (4) site computers to use as interface with data loggers;
11. Four (4) ESC software to facilitate remote accessing, downloading and processing of data.

This equipment shall be conveyed, after purchase, by the Respondent to the Department by an Act of Donation within Ninety (90) days from notice of the Secretary's signature, unless delivery is delayed by the vendor, in which case, Respondent shall notify DEQ and will have corresponding additional time to complete the conveyance. It is the intent of the parties that this equipment shall be used in conjunction with the Calcasieu Parish Comprehensive Ambient Air Sampling Program. Should the Department determine that such equipment is no longer needed in Calcasieu Parish, or that the need for such equipment is greater in another area, the Department shall have discretion to relocate such equipment.

B. Respondent shall submit a single final report within Thirty (30) days from the execution of the Act of Donation setting forth the completion of the projects set forth hereinabove,

including the total amount spent on the projects listed above. It shall also contain a certification that the projects were completed as described.

If Respondent does not spend the amount of One Hundred Fifty Thousand One Hundred Twenty and No/100 Dollars (\$150,120.00), then it shall, in its final report, propose additional projects for the Department's approval or pay to the Department, in an amount equal to the difference between the amount of money agreed to be spent and the amount of money actually spent.

VI

Additionally, The Respondent has rerouted wastewater streams set forth as follows and shall abide by all testing frequency, sample limits and parameters as follows until such time as a final LPDES permit is issued to the facility or until otherwise notified by this Office:

1. In October 1998, PPG requested the Department's approval to cease using Outfall 003 and to reroute the continuous discharge of predominantly once-through cooling water from Outfall 003 (which discharged to the PPG Barge Slip at the confluence of Bayou Verdine) to existing Outfall 002, which discharges to the Coon Island Reach of the Calcasieu Ship Channel. The existing permit monitoring requirements for Outfall 003 were flow (estimate) and pH (grab) with a sampling frequency of 3 per week. The existing permit requirements for Outfall 002 were flow (estimate) and pH (grab), with a sampling frequency of 1 per day when flowing. PPG proposed to monitor Outfall 002 at the rate required by Outfall 003 (a continuous discharge requirement) and to comply with the more stringent pH limits for Outfall 003. PPG submitted an updated permit application to accomplish this change. The rerouting project was commenced on December 7, 1998 and was completed on February 26, 1999. PPG has been monitoring Outfall 002 with the Outfall 003 frequencies and limits.

2. Until PPG's LPDES permit is modified or renewed, PPG is authorized to discharge the following streams through Outfall 002, pursuant to the interim compliance monitoring requirements and limits contained in Table 1, below: storm water run-off from Powerhouse A and Caustic/chlorinated hydrocarbon dock storage areas; steam condensate from diaphragm cell chlor-alkali production (Plant A); treated sanitary wastewater from Plant A garage, sand blast area and shipping dock; and once-through cooling water from Powerhouse A and dock storage areas (as described on the revised Form 2C submitted on October 21, 1998).

Table 1

Parameter	Sample Type	Frequency	Limits
Flow	Estimate	3\week	Report Daily Maximum
pH	Grab	3\week	Not less than 6.0 nor greater than 9.0 standard units

PPG will submit all compliance monitoring data required in Table 1 for Outfall 002 in the DMRs that are submitted monthly to the Department.

VII

Respondent further agrees that the Department may consider the inspection report(s), Compliance Orders, the Notice of Potential Penalty and this Settlement for the purpose of determining compliance history in connection with any future enforcement or permitting action by the Department against Respondent, and in any such action the Respondent shall be estopped from objecting to the above-referenced documents being considered as proving the violations alleged herein for the sole purpose of determining Respondent's compliance history.

VIII

This settlement is being made in the interest of settling the state's claims and avoiding for both parties the expense and effort involved in litigation or an adjudicatory hearing. In agreeing to the compromise and settlement, the Department considered the factors for issuing civil penalties set forth in LSA- R. S. 30:2025(E) of the Act and the rules relating to beneficial environmental projects set forth in LAC 33:I. Chapter 25.

IX

The Respondent has caused a public notice advertisement to be placed in the official journal of the parish governing authority in Calcasieu Parish as well as a newspaper of general circulation in that parish. The advertisement, in form, wording, and size approved by the Department, announced the availability of this settlement for public view and comment and the opportunity for a public hearing. Respondent has submitted a proof-of-publication affidavit to the Department and, as of the date this Settlement is executed on behalf of the Department, more than forty-five (45) days have elapsed since publication of the notice.

X

Payment is to be made within ten (10) days from notice of the Secretary's signature. If payment is not received within that time, this Agreement is voidable at the option of the Department. Penalties are to be made payable to the Department of Environmental Quality and mailed to the attention of Darryl Serio, Office of Management and Finance, Department of Environmental Quality, Post Office Box 82231, Baton Rouge, Louisiana, 70884-2231.

XI

In consideration of the above, any claims for penalties are hereby compromised and settled in accordance with the terms of this Settlement.

XII

The person signing for the Respondent and the Department both represent that they have the requisite authority to sign for the party.

WITNESSES:

RESPONDENT

BY: _____

NAME: _____

TITLE: _____

THUS DONE AND SIGNED before me this _____ day of _____, 20____,
at _____, State of _____.

NOTARY PUBLIC

WITNESSES:

STATE OF LOUISIANA

J. Dale Givens, Secretary
Dept. of Environmental Quality

BY: _____

Linda Korn Levy, Assistant Secretary
Office of Environmental Compliance

THUS DONE AND SIGNED before me this _____ day of _____, 20____, at
Baton Rouge, Louisiana.

NOTARY PUBLIC

Approved: _____
Linda Korn Levy, Assistant Secretary